

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

IN RE: TESTOSTERONE REPLACEMENT
THERAPY PRODUCTS LIABILITY LITIGATION

STANLEY J. SMITH

Plaintiff(s),

v.

AUXILIUM PHARMACEUTICALS, INC.,
ABBVIE, INC. and ABBOTT
LABORATORIES, INC.,

Defendant(s).

All parties are to be included per Fed.R.Civ.P. 10(a)

MDL No. 2545

Master Docket Case No. 1:14-cv-01748

Honorable Matthew F. Kennelly

Case No.: 1:15-CV-08599

SECOND AMENDED MASTER SHORT-FORM COMPLAINT
FOR INDIVIDUAL CLAIMS

1. Plaintiff(s), STANLEY J. SMITH

state(s) and incorporate(s) by reference the portions indicated below of Plaintiffs' Master Long Form Complaint on file with the Clerk of the Court for the United States District Court for the Northern District of Illinois in the matter entitled *In Re: Testosterone Replacement Therapy Products Liability Litigation*, MDL No. 2545. Plaintiff(s) [is/are] filing this Short Form Complaint as permitted by Case Management Order No. 20 of this Court for cases filed directly into this district.

2. In addition to the below-indicated portions of the Master Long Form Complaint adopted by the plaintiff(s) and incorporated by reference herein, Plaintiff(s) hereby allege(s) as follows:

VENUE

3. Venue for remand and trial is proper in the following federal judicial district: District of Arizona

**IDENTIFICATION OF PLAINTIFF(S)
AND RELATED INTERESTED PARTIES**

4. Name and residence of individual injured by Testosterone Replacement Therapy product(s) ("TRT"): STANLEY J. SMITH
2436 East Randall Drive, Tempe, Arizona 85281

5. Consortium Claim(s): The following individual(s) allege damages for loss of consortium: None/not applicable.

6. Survival and/or Wrongful Death claims:
a. Name and residence of Decedent when he suffered TRT-related injuries and/or death:
None/not applicable.

b. Name and residence of individual(s) entitled to bring the claims on behalf of the decedent's estate (e.g., personal representative, administrator, next of kin, successor in interest, etc.)
None/not applicable.

**CASE SPECIFIC FACTS
REGARDING TRT USE AND INJURIES**

7. Plaintiff currently resides in (city, state): Tempe, Arizona
8. At the time of the TRT-caused injury, [Plaintiff/Decedent] resided in (city, state): Chandler, Arizona

9. [Plaintiff/Decedent] began using TRT as prescribed and indicated on or about the following date: November, 2007

10. [Plaintiff/Decedent] discontinued TRT use on or about the following date: October, 2008

11. [Plaintiff/Decedent] used the following TRT products, which Plaintiff contends caused his injury(ies):

- | | |
|--|---|
| <input checked="" type="checkbox"/> AndroGel | <input type="checkbox"/> Striant |
| <input checked="" type="checkbox"/> Testim | <input type="checkbox"/> Delatestryl |
| <input type="checkbox"/> Axiron | <input type="checkbox"/> Other(s) (please specify): |
| <input type="checkbox"/> Depo-Testosterone | _____ |
| <input type="checkbox"/> Androderm | _____ |
| <input type="checkbox"/> Testopel | _____ |
| <input type="checkbox"/> Fortesta | _____ |

12. [Plaintiff/Decedent] is suing the following Defendants:

- | | |
|--|--|
| <input checked="" type="checkbox"/> AbbVie Inc. | <input type="checkbox"/> Endo Pharmaceuticals, Inc. |
| <input checked="" type="checkbox"/> Abbott Laboratories | <input checked="" type="checkbox"/> Auxilium Pharmaceuticals, Inc. |
| <input type="checkbox"/> AbbVie Products LLC | <input type="checkbox"/> GlaxoSmithKline, LLC |
| <input type="checkbox"/> Unimed Pharmaceuticals, LLC | |
| <input type="checkbox"/> Besins Healthcare Inc. | <input type="checkbox"/> Actavis, Inc. |
| <input type="checkbox"/> Besins Healthcare, S.A. | <input type="checkbox"/> Actavis Pharma, Inc. |
| | <input type="checkbox"/> Actavis Laboratories UT, Inc. |
| <input type="checkbox"/> Eli Lilly and Company | <input type="checkbox"/> Anda, Inc. |
| <input type="checkbox"/> Lilly USA, LLC | |
| <input type="checkbox"/> Acrux Commercial Pty Ltd. | |
| <input type="checkbox"/> Acrux DDS Pty Ltd. | |
| <input type="checkbox"/> Pfizer, Inc. | |
| <input type="checkbox"/> Pharmacia & Upjohn Company Inc. | |

☐ Other(s) (please specify): ~~None/not applicable.~~ _____

13. [Plaintiff/Decedent] is bringing suit against the following Defendant(s), who did not manufacture TRT and only acted as a distributor for TRT manufacturers:

None/not applicable.

a. TRT product(s) distributed: _____

b. Conduct supporting claims: _____

14. TRT caused serious injuries and damages including but not limited to the following:

Acute myocardial infarction, coronary stent placement to the lower anterior descending artery.

15. Approximate date of TRT injury: July 14, 2008

**ALLEGATIONS, CLAIMS, AND THEORIES OF RECOVERY
ADOPTED AND INCORPORATED IN THIS LAWSUIT**

16. Plaintiff(s) hereby adopt(s) and incorporate(s) by reference as if set forth fully herein, all common allegations contained in paragraphs 1 through 466 of the Master Long Form Complaint on file with the Clerk of the Court for the United States District Court for the Northern District of Illinois in the matter entitled *In Re: Testosterone Replacement Therapy Products Liability Litigation*, MDL No. 2545.

17. Plaintiff(s) hereby adopt(s) and incorporate(s) by reference as if set forth fully herein, the following damages and causes of action of the Master Long Form Complaint on file with the Clerk of the Court for the United States District Court for the Northern District of Illinois in the matter entitled *In Re: Testosterone Replacement Therapy Products Liability Litigation*, MDL No. 2545:



Count I – Strict Liability – Design Defect



Count II – Strict Liability – Failure to Warn



Count III – Negligence

- ☒ Count IV – Negligent Misrepresentation
 - ☒ Count V – Breach of Implied Warranty of Merchantability
 - ☒ Count VI – Breach of Express Warranty
 - ☒ Count VII – Fraud
 - ☐ Count VIII – Redhibition
 - ☒ Count IX – Consumer Protection
 - ☒ Count X – Unjust Enrichment
 - ☐ Count XI – Wrongful Death
 - ☐ Count XII – Survival Action
 - ☐ Count XIII – Loss of Consortium
 - ☒ Count XIV – Punitive Damages
 - ☒ Prayer for Relief
 - ☐ Other State Law Causes of Action as Follows: None/not applicable.
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JURY DEMAND

Plaintiff(s) demand(s) a trial by jury as to all claims in this action.

Dated this the 15th day of November, 2016.

RESPECTFULLY SUBMITTED
ON BEHALF OF THE PLAINTIFF(S),

/s/Rachel Abrams

Signature

OF COUNSEL: (name) Rachel B. Abrams (CA Bar No. 209316)
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